

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JIMMY DOWNS,

Plaintiff(s),

v.

NEVADA TAXICAB AUTHORITY, et al.,

Defendant(s).

Case No. 2:11-CV-453 JCM (PAL)

ORDER

Presently before the court is defendant's third motion for attorneys' fees and costs.¹ (Doc. # 82). Plaintiff filed a response (doc. # 83) and defendant filed a reply (doc. # 84).

On June 15, 2012, this court entered an order denying cross-motions for summary judgment. (Doc. # 61). State defendant Michael Ferriolo appealed that order. (Doc. # 64). The Ninth Circuit reversed this court (doc. # 72) and remanded the matter for further proceedings (doc. # 77). As a result of the appellate court's order, all federal claims were dismissed and the only remaining claims were for various torts under state law.

On April 28, 2014, defendant Ferriolo submitted his second motion for attorneys' fees and costs. (Doc. # 78). On April 30, 2014, before plaintiff could file a response to defendant's second motion for attorneys' fees and costs, this court declined to exercise supplemental jurisdiction over the remaining state law claims and dismissed the case without prejudice. (*See* doc. # 79). The clerk entered judgment dismissing the case without prejudice on the same day. (Doc. # 80).

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¹ The court notes that defendant's first motion for attorneys' fees (doc. # 40) is not procedurally relevant to the present issue.

1 On May 2, 2014, the court declined to resolve defendant Ferriolo's second motion for
2 attorneys' fees and costs. Because the state law claims had not been adjudicated, the court found
3 that the matter had not reached a final judgment in its entirety. (*See* doc. # 81). Therefore, the
4 court held defendant's motion for attorneys' fees and costs premature. (*See id.*).

5 Defendant Ferriolo filed this third motion for attorneys' fees and costs soon after this
6 court's order denying his second motion. (Doc. #82). The third motion is nearly identical to the
7 second motion, with only a few minor alterations to the fees and costs asserted. (*See id.*).

8 The state court case (A-14-700837-C) appears to still be pending, and neither party has
9 submitted documentation that any of the state law claims have been resolved. Therefore, the
10 court finds that defendant Ferriolo's third motion for attorneys' fees and costs is still premature.

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's third motion
13 for attorneys' fees and costs (doc. # 82) is DENIED.

14 DATED October 1, 2014.

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16 UNITED STATES DISTRICT JUDGE
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